

EXHIBIT C

Document 35-4 Filed
Jason Fetter

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 MIDDLE DISTRICT OF PENNSYLVANIA

3 - - -

4 RIC SZABO,
 Plaintiff

: Civil Action
: No. 21-cv-00468

5

vs.

6

MUNCY INDUSTRIES, LLC

7 D/B/A MUNCY MACHINE & :
TOOL CO., INC., :

8 Defendant :

9
10

11 Wednesday, August 24, 2022

12

13 Remote videoconference deposition of JASON
14 FETTER, taken pursuant to notice, at the location of
15 the witness in Houston, Texas, on the above date,
16 beginning at 10:08 a.m. Eastern Standard Time,
17 before Donna A. Bittner, RMR-CRR and Notary Public.

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22 GOLKOW TECHNOLOGIES, INC.

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APPEARANCES: (VIA ZOOM)

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- - -

Jason Fetter

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I N D E X

WITNESS:	PAGE
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By Ms. Kramer	4, 56
By Mr. Stapp	54

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EXHIBITS	DESCRIPTION	PAGE
Fetter-1	Defendant's Answers to Plaintiffs' Interrogatories (8 pages)	20
Fetter-2	Application for Employment and Resume Muncy-000011-000015	46

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1 COURT REPORTER: All
2 parties to this deposition are
3 appearing remotely and have agreed
4 to the witness being sworn in
5 remotely. Due to the nature of
6 remote reporting, please pause
7 briefly before speaking to ensure
8 all parties are heard completely.

9 - - -

10 ...JASON FETTER, 4804
11 Chaperel Drive, Pearland, Texas
12 77584, having been duly sworn, was
13 examined and deposed as follows...

14 - - -

15 EXAMINATION

16 - - -

17 BY MS. KRAMER:

18 Q. Good morning, Mr. Fetter.
19 My name is Mary Kramer. I am one of the
20 attorneys representing Mr. Szabo in the
21 matter he has brought against Muncy
22 Industries. The reason I have asked you
23 here today is just to ask you about what
24 facts you have personal knowledge of and

1 then after I'm finished your attorney may
2 have some follow-up questions and then we
3 will be finished.

4 All right?

5 A. Yes.

6 Q. First, I'd just like to go
7 over a few instructions with you.

8 Have you ever had your
9 deposition taken before?

10 A. No.

11 Q. So when I ask you a
12 question, I would just ask that you allow
13 me to finish asking my question before
14 answering, and likewise I will do my best
15 to allow you to finish answering before I
16 ask you my next question. This way
17 things will be easier for Donna, our
18 court reporter, to get everything and it
19 will make it so we have a clean and clear
20 transcript.

21 Okay?

22 A. Yes.

23 Q. I'd also ask you to keep
24 your responses verbal instead of um-hum

1 or uh-uh or nodding or shaking your head,
2 because Donna will have a difficult time
3 getting answers like that down on the
4 record.

5 And I also want to make it
6 very clear that I am not asking about any
7 privileged information, so any
8 communications or conversations that you
9 have had with your attorney are not
10 things you need to tell me. Okay?

11 A. Yes.

12 Q. If your attorney has any
13 objections to any of my questions, please
14 allow us to resolve that objection and
15 then you can go ahead and answer the
16 question. All right?

17 A. Yes.

18 Q. If you don't know the answer
19 to something, please don't guess. You
20 can tell me you don't know or that you're
21 unsure and then we can just move on. All
22 right?

23 A. Yes.

24 Q. And then just remember that

Jason Fetter

1 this is under oath the same way it would
2 be if we were before a judge and jury, so
3 you are required to tell the truth as
4 much as you're able to. All right?

5 A. Yes.

6 Q. If at any time you need to
7 take a break, just let me know and I will
8 be happy to do so. The only thing I ask
9 is that if there is a question pending,
10 you answer that question before we can
11 take a break. Okay?

12 A. Yes.

13 Q. With that out of the way,
14 can you please state your name for the
15 record?

16 A. Jason Fetter.

17 Q. How old are you?

18 A. Oh, you're asking easy
19 questions. Like 44.

20 Q. Like 44?

21 A. Yes.

22 Q. All right. What is your
23 current mailing address?

24 A. 4804 Chaperel Drive,

1 Pearland, Texas 77584.

2 Q. Is there anyone in the room
3 with you?

4 A. Not in the close proximity,
5 no.

6 Q. Do you have any documents or
7 notes with you right now?

8 A. No.

9 Q. How did you prepare for
10 today's deposition?

11 A. I reviewed some of the
12 pleadings and other depositions.

13 Q. Okay. Did you speak with
14 anyone about today's deposition besides
15 your attorney?

16 A. No.

17 Q. Did you speak to Megan
18 Delahoussaye about today's deposition?

19 A. No.

20 Q. Did you speak to Megan
21 Delahoussaye about her deposition on June
22 15, 2022?

23 A. No.

24 Q. Is there anything that would

1 prevent you from testifying truthfully
2 today?

3 A. No.

4 Q. The next question, it may
5 sound invasive, but I don't mean any
6 offense by it. Are you currently taking
7 any drugs or medications that would
8 interfere with your ability to understand
9 my questions or to tell the truth?

10 A. No.

11 Q. Are you taking any drugs or
12 medication that would impair your memory?

13 A. No.

14 Q. When did you learn about
15 Mr. Szabo's claims against Muncy?

16 A. I guess when he filed suit.

17 Q. After you learned about
18 Mr. Szabo's lawsuit, did anyone excluding
19 your attorney give you instructions
20 regarding saving documents that might be
21 related to this matter?

22 A. No.

23 Q. To the best of your
24 knowledge, since you first learned of

1 this lawsuit, have any documents that are
2 related to this matter and Mr. Szabo's
3 employment with Muncy been destroyed?

4 A. Can you repeat the question?

5 Q. Sure. To the best of your
6 knowledge, since you first learned about
7 Mr. Szabo's lawsuit, have any documents
8 that are related to Mr. Szabo's lawsuit
9 and his employment with Muncy been
10 destroyed?

11 A. No. I would like to say --

12 Q. Mr. Fetter --

13 A. I would like to say that Ric
14 had documents and he might have -- that
15 was prior to the action. He had a laptop
16 that he wiped, so some documents he could
17 have had there that we do not have access
18 to.

19 Q. Okay. What is your highest
20 level of education?

21 A. I have a juris doctorate and
22 a master of business administration.

23 Q. Where did you go to law
24 school and then to get your master's?

1 A. Penn State Dickinson in
2 Carlisle, Pennsylvania for the law
3 school. My master's in business
4 administration was through Penn State as
5 well.

6 Q. So you got your JD. Did you
7 take the bar exam?

8 A. Yes.

9 Q. Are you currently
10 admitted --

11 A. No.

12 Q. -- to practice? Okay.
13 Where did you take the bar exam?

14 A. When? 2003.

15 Q. What state?

16 A. Pennsylvania.

17 Q. Did you practice law after
18 that?

19 A. Yes.

20 Q. What was your field of
21 practice?

22 A. I was kind of like Atticus
23 Finch, so I was a small town attorney,
24 kind of did whatever came in the door. We

1 did everything, so I filled in for
2 different people, so yes.

3 Q. When did you start working
4 for Muncy?

5 A. Full time or ever?

6 Q. Both.

7 A. I worked in college a little
8 bit in the machines. I worked 2004 or '5
9 maybe second shift on the machines while
10 I was an attorney.

11 Q. Okay.

12 A. I started full time
13 2006-ish, and then I worked until 2012,
14 and then I moved to Houston, and then I
15 went back to Muncy in 2014, and I have
16 been with Muncy since.

17 Q. So in 2014 what was your
18 position?

19 A. At Muncy?

20 Q. Yes.

21 A. Vice president.

22 Q. Were you still an attorney
23 at the time?

24 A. I'm still an attorney now.

1 Did I practice in 20 -- in 2014 I did
2 not, I stopped. I was not practicing.

3 Q. Okay. What are your job
4 duties for Muncy as a vice president?

5 MR. STAPP: I missed the
6 question.

7 THE WITNESS: I'm sorry.

8 MR. STAPP: Yeah, it broke
9 up.

10 THE WITNESS: Yeah.

11 BY MS. KRAMER:

12 Q. What are your job duties for
13 Muncy as a vice president?

14 A. Fill in the holes. Small
15 company, small family business, so I'm
16 involved in sales, I'm involved in
17 purchasing, I'm involved in quality, I'm
18 involved in production, I'm involved in
19 shipping, I'm involved in accounting, I'm
20 involved in some engineering, I'm
21 involved in calibration, I'm involved in
22 whatever the holes are. I mean, it's
23 very eclectic.

24 Q. Okay. So in this

1 fill-in-the-hole position as the vice
2 president, is one of your
3 responsibilities hiring and firing
4 employees?

5 A. Yes.

6 Q. And then is this your
7 decision -- or let me ask it a different
8 way. Who at Muncy decides whether an
9 employee would be classified as an exempt
10 employee and paid a salary or whether
11 they would be paid on an hourly basis and
12 entitled to overtime?

13 A. It depends on who is hiring
14 the employee.

15 Q. Okay. So you're not the
16 only person who does the hiring?

17 A. Correct.

18 Q. Who else makes those
19 decisions?

20 A. The plant managers can make
21 some of the decisions depending on, in
22 terms of hiring and firing. There is
23 also, I would say Ophelia Fetter also
24 hires and fires, Justin Fetter hires and

1 fires, I would say the plant managers
2 hire and fire.

3 Q. Okay. Who is Ophelia
4 Fetter?

5 A. She is the president and
6 owner of some of the entities.

7 Q. Justin Fetter?

8 A. He's the vice president of
9 Muncy Machines and a part owner.

10 Q. Okay. Are you a part owner?

11 A. It's complicated, but I'll
12 go with no.

13 Q. Okay. Was it your decision
14 to make Mr. Szabo a salary exempt
15 employee?

16 A. Yes.

17 Q. How did you make that
18 decision?

19 A. It was a new division. It
20 was a new function that Muncy had never
21 done, which was service test beds,
22 service and calibrate and service
23 equipment, so I was learning what type of
24 travel was required because we have never

1 done it, what expertise based off of what
2 Ric kind of explained to me as to the
3 travel involved, just having, because you
4 travel to go to do the service. So based
5 off of the projects that I knew that he
6 was going to work on setting up the
7 entire department, writing all the
8 procedures, it was just not a 40-hour
9 week kind of job, so based off of his
10 experience in the industry, which was
11 very specialized based off of his
12 experience in the military and all of his
13 acclimates along the way, it seemed like
14 it was prudent to, to also ask Ric, you
15 know, how should we do this from an
16 accounting, how do we account for this,
17 how do we figure out the easiest way, the
18 most fair way to do this, and we came up
19 with salary.

20 Q. Okay. So then when did you
21 first meet Mr. Szabo?

22 A. Face to face?

23 Q. In any capacity. If you
24 don't remember the date, that's fine.

1 A. I believe it was in November
2 or December of 2017. I met him at a
3 hotel for breakfast to talk about the
4 position, what he could do. It was kind
5 of a job interview trying to -- I had
6 never met him. I had never heard of him.
7 I wasn't in that space. That would be
8 when. Yeah, I think it was in Indiana or
9 somewhere in the Midwest.

10 Q. Okay. So what led to this
11 job interview?

12 A. I had understood that
13 Mr. Szabo was no longer employed in our
14 industry and was a very, he was the lead
15 calibration tech for another company and
16 was unemployed and looking for a job.

17 I believe he and Joe Roberts
18 had a relationship and Joe had mentioned
19 you might want to consider this guy
20 because he's highly technical, he knows
21 what he's doing, he's done it before,
22 plug and play, kind of he could build the
23 whole department, and so I said okay,
24 let's meet this guy, so that's what we

1 did.

2 Q. And then when did you make a
3 decision to hire Mr. Szabo?

4 A. I believe shortly right
5 after that meeting. I think within a few
6 days I had sent some type of an offer to
7 him and within a few days after perhaps
8 he accepted it.

9 Q. And the official title that
10 you hired Mr. Szabo for, what was that?

11 A. Well, he was the only,
12 presumably the only calibration
13 technician, and I had no -- yeah, so
14 calibration technician.

15 Q. Do you remember what the job
16 duties of that position were at the time
17 of hiring?

18 A. At the time of hiring, so we
19 kind of, everything. I mean he might
20 have even written -- he might have even
21 wrote his job description because I
22 didn't know what a calibration tech did.

23 He defined everything, so he
24 led everything, so he was responsible for

1 starting everything from scratch, so what
2 equipment do we need, what standards
3 should we comply with, what ISO should we
4 be complying with, what equipment should
5 we use to comply, how high should we go,
6 what should these kits have.

7 I mean, I didn't know
8 anything, so he kind of put a bill of
9 materials together. He kind of made the
10 certs for, you know, when you calibrate
11 you have certificates. He put all of
12 that together, all the forms, and that
13 was understood that he was going to start
14 this from scratch and the end result
15 would be the calibration department where
16 we would build it around him because he
17 knew and no one else knew.

18 Q. Okay. So I know you're a
19 lawyer. What is your understanding of
20 the claims Mr. Szabo has brought against
21 Muncy?

22 A. He wants overtime, back pay
23 for overtime.

24 Q. Are you familiar with the

1 Fair Labor Standards Act?

2 A. Very generally.

3 Q. All right. What about the
4 Pennsylvania Minimum Wage Act?

5 A. Generally.

6 Q. I show you, and I know
7 you're on your phone, so this might be
8 difficult for you to see, so just let me
9 know, but I'm going to share my screen
10 and show you what I've marked as
11 Fetter-1. Those are Defendant's Answers
12 to Plaintiffs' Interrogatories.

13 (Exhibit Fetter-1 was marked
14 for identification.)

15 BY MS. KRAMER:

16 Q. Just give me one second. If
17 you need me to make the screen bigger,
18 let me know, but are you familiar with
19 this document?

20 A. Yes.

21 Q. Just for the record, when
22 we're discussing this document, please
23 know that when I say "plaintiff" I'm
24 referring only to Ric Szabo. Okay?

Jason Fetter

1 A. Yes.

2 Q. Did you assist in answering
3 plaintiff's Interrogatories on behalf of
4 Muncy?

5 A. Yes.

6 Q. I'm not going to go through
7 all of the answers, only a few of them,
8 but I am going to start with Number 1.
9 I'm going to read the question for the
10 record and I'll also give you an
11 opportunity to review it for yourself as
12 well as your answer.

13 Interrogatory No. 1 says,
14 "Identify by name, last known address and
15 last known telephone number, all persons
16 with knowledge of the facts and
17 circumstances alleged in Plaintiff's
18 Complaint and in Defendant's Answer to
19 complaint and Affirmative Defenses."

20 Did I read that correctly?

21 A. Yes.

22 Q. The answer only provides
23 your name, Jason Fetter, and what I
24 believe is your address and phone number;

1 is that correct?

2 A. Yes.

3 Q. So based on this answer to
4 Interrogatory No. 1, am I correct in
5 stating that you were the only person at
6 Muncy Industries with any knowledge of
7 the facts and circumstances alleged in
8 Mr. Szabo's Complaint and in Muncy's
9 Answer and Affirmative Defenses? And I
10 can make it bigger if that will help.

11 A. Yes, I'm the only one that
12 had the conversations for hiring him and
13 yes.

14 Q. Okay. So I'm going to move
15 down to Number 2 which is on Page 1 and
16 2, so this says, "Identify in full and
17 complete detail plaintiff's job" -- or
18 "plaintiff's title, job duties and
19 responsibilities."

20 I'll let you take a second
21 to read your complete answer, so just let
22 me know when you're ready.

23 A. I'm ready.

24 Q. Okay. Mr. Szabo's job

1 title, you answered that he was a
2 calibration technician lead; is that
3 right?

4 A. Yes.

5 Q. Did you prepare this list of
6 his job duties and responsibilities for
7 the position of calibration technician
8 lead?

9 A. That is certainly a form of
10 an answer, yes. I mean, you can go into
11 more detail. The other things he might
12 have also done was he had some sales
13 functions as well.

14 Q. Okay. So if we add sales
15 functions to that list, is there anything
16 missing?

17 A. There is probably a lot
18 missing in many ways in that there is a
19 lot of, this is a general statement, and
20 there is a lot of -- there is other
21 duties. There is a lot of other things.
22 He did a lot of things, technical, he did
23 a lot of things.

24 Q. So is that not a full and

1 complete detailed list of Mr. Szabo's job
2 duties as a calibration technician lead?

3 A. Yeah, I would, I would go a
4 little further where it says "Support
5 other calibration technicians and create
6 and lead the calibration programs
7 technical aspects," I would kind of add
8 to that the training of new calibration
9 technicians, I would add to that
10 statement or to that list because it's
11 kind of in between both because it is
12 supporting calibration techs. It's also
13 creating and leading program's technical
14 aspects and the training is very
15 technical.

16 Q. Okay. How many other
17 technicians did Mr. Szabo train?

18 A. Five or six.

19 Q. Five or six?

20 A. Yes.

21 Q. Okay. Do you remember their
22 names?

23 A. Shandi Crappell, Will Croy.
24 There were a few others that I don't know

1 their names, Miguel, and there is another
2 gentleman which I don't remember his name
3 that was trained under -- I don't think
4 they took. I don't think they were
5 employed for long per Ric's
6 recommendations.

7 Q. Okay. Who else?

8 A. Jason Fetter, myself, Ric
9 trained me. I'm trying to think. That's
10 five. I feel like there might have been
11 another, but I don't -- those would be
12 the ones I would say that he trained.

13 Q. All right. So next I want
14 to look at Number 5. Let me know when
15 you've had a chance to review and
16 complete. It starts here and goes to
17 here (indicating).

18 A. Okay. What's your question?

19 Q. In part, Interrogatory No.
20 5, asks defendant to state with
21 particularity the number of hours
22 plaintiff worked in each calendar week
23 during the last three years, and in
24 relevant part defendant answers, "Ric

1 Szabo was a salary employee. See times
2 clocked in as already submitted as they
3 speak for themselves. During trips no
4 record was taken of his time, as he was a
5 salaried employee as he had agreed in his
6 offer letter and as he was paid for the
7 two or so years he was employed."

8 Based on this answer it
9 seems that there was no method of
10 tracking the calibration technician's
11 time when he was in the field; is that
12 correct?

13 A. Correct.

14 Q. So did the calibration
15 technicians work 9:00 to 5:00 when they
16 were in the field?

17 A. It depends.

18 Q. What did it depend on?

19 A. So some calibrations could
20 be in two, three hours. Some
21 calibrations could take a day or two.
22 Sometimes there is travel, sometimes
23 there is not in between. Sometimes
24 they're local, sometimes they're -- there

1 is some travel, so sometimes you're done
2 calibrating at 10:00 a.m., 11:00 a.m. in
3 the morning and then you can move on to
4 the next place. Sometimes you're done at
5 5:00. It just depends. And we did not
6 have any mechanism for tracking time on
7 the road like that that was reliable and
8 so we just, we felt this was the easiest
9 and the most fair way to be salary.

10 Because of the travel it made sense for
11 him to be salary as everyone agreed.

12 Q. Was that the policy for all
13 the calibration technicians?

14 A. Yes.

15 Q. Was that the policy if the
16 calibration technician was not a
17 calibration technician lead?

18 A. Yes.

19 Q. If the calibration
20 technician finished a job at one site at
21 5:00 p.m., would they be instructed to
22 drive to the next site or would they be
23 instructed to wait until the next day and
24 drive during business hours?

1 A. It's up to the calibration
2 tech.

3 Q. Do they have set times --

4 A. There are --

5 Q. I'm sorry, go ahead.

6 A. Well, there are factors,
7 too, so, you know, weather can play a
8 role in decisionmaking, how close the
9 other location is. It's really, you
10 know, when you're on your trip, you know,
11 the calibration tech is the one doing the
12 work and driving or flying or doing
13 whatever so it's...

14 Q. And this answer, you know,
15 it talks about the times clocked. As
16 vice president were you also someone who
17 clocked in and clocked out?

18 A. No.

19 Q. What was the purpose of
20 having a salaried employee clock in and
21 clock out?

22 A. So when you're at a facility
23 the concept is you're still supposed to
24 maintain at least regular hours, so we

1 wanted to see how many hours people work
2 hourly or salary. We want to see when
3 they get to work, if they're late, if
4 they're early, if they stay late, if they
5 leave early, you know. We just need to
6 understand the hours people are putting
7 in if they're at a facility, a Muncy
8 facility.

9 Q. I'm just going to jump down
10 to Number 9. Let me know when you've had
11 a chance to read the question and the
12 answer.

13 A. Okay.

14 Q. Just for the record, this
15 asks, "Describe in detail the factual
16 basis for defendant's contentions in its
17 answer that plaintiffs were exempt
18 employees within the meaning of the FLSA
19 and the PMWA, including but limited to
20 the professional executive administrative
21 or other professional exemption and
22 corresponding state laws."

23 I haven't been able to
24 figure it out by reading the answer, so

1 I'm going to ask you which exemption
2 Muncy is asserting applies to Mr. Szabo.
3 A. Is that a legal -- I don't
4 understand. Can you ask me the question
5 about --

6 MR. STAPP: I'll just object
7 to the form of the question. If
8 you can answer the question, you
9 can answer it. If you don't,
10 because you're not an expert in
11 FLSA, then you don't need to
12 answer the question.

13 THE WITNESS: Yeah, I'll
14 answer any question that's
15 factual.

16 MS. KRAMER: Mr. Fetter has
17 said he helped prepare these
18 answers. I'm not sure based on
19 this answer which exemption Muncy
20 is claiming applies to Mr. Szabo.

21 THE WITNESS: Can you read
22 to me the FLSA and the PMWA? I'm
23 not sure what -- maybe I could
24 help you if you read to me the

1 section that you're referring to,
2 but that is still a legal
3 conclusion. I'm just trying to
4 give you facts.

5 BY MS. KRAMER:

6 Q. So you can answer that way
7 if you're not sure which exemption
8 applies.

9 A. I'm not sure.

10 Q. What was Mr. Szabo's primary
11 duty as a calibration technician lead? I
12 know we already discussed his
13 responsibilities a little bit, if you had
14 to narrow it down to a primary duty.

15 A. I'm sorry. Can you repeat
16 that question?

17 Q. What was his primary duty as
18 a calibration technician lead?

19 A. So at different times there
20 was different roles. In the very
21 beginning he was, he started from
22 scratch, so write the procedures, write
23 the forms, do the research on what we
24 needed, find vendors for the equipment

1 that we needed, design the equipment
2 because they're custom, and this is a
3 very niche of a niche market and what we
4 were looking for was very niche.

5 Then once, once we had the
6 basis of what the actual calibration
7 program was, then to get it accredited,
8 so he had to watch that and then add,
9 once it was accredited, once we were
10 essentially competent, then going out and
11 calibrating, and then once we started
12 doing that then we further, he would
13 train people to do so, all the while
14 maintaining and growing our knowledge
15 base and determining how to, you know,
16 there are problems in the field, you
17 know. He was the resident expert where
18 if you had a question about a hookup on
19 how to calibrate, if you had a question
20 on how low you can go, if you had a
21 question about the instrumentation and
22 how it was reading, he was our go to guy
23 because he had the experience and he
24 taught everybody how to do it.

1 So he was, when he was
2 traveling he was still on call, he was
3 still getting questions about how do you
4 do certain things. When he was not on
5 the road, people would still call him
6 because he was our expert.

7 In addition to that, are you
8 talking about his role as a calibration
9 tech lead, and while he was on the road
10 he was also looking for opportunities to
11 help kind of consult with our, the test
12 beds we were manufacturing. I mean, he
13 was constantly being asked for his expert
14 opinion because he's seen so many test
15 beds. He's seen what's worked and what
16 has not worked well, so he was often a
17 springboard for our mechanical engineers
18 to ask him questions on functionality and
19 also on the practicality.

20 At the same time when he was
21 in the office he was setting up the lab
22 trying to make it so that we could
23 calibrate at our Lafayette location as
24 well.

1 Q. How often was he in the
2 office?

3 A. I think it really
4 fluctuated, so there were times,
5 especially early on when he first
6 started, he was in the office the whole
7 time.

8 When we were setting up the
9 program, before we had equipment, the
10 first few months he was there
11 exclusively, and then over time as the
12 calibration program took off he was on
13 the road more and more.

14 We tried to limit travel to
15 be palatable for everybody because it's a
16 marathon, not a sprint, but we wanted
17 to -- so oftentimes we would try to have
18 time in between trips, but sometimes it
19 didn't work that way because he was our
20 only calibration tech, and he understood
21 that. At one -- at some point he was the
22 only calibration tech we had, and then
23 over time he became the lead after we had
24 more.

1 Q. So just to make things a
2 little more definitive, when did
3 Mr. Szabo start going out on the road?

4 A. I would have to look at that
5 list we provided. I'd have to look at
6 that list we provided, but I would say
7 April or May of 2018 perhaps, I'm not
8 sure, but I would defer to that list.

9 Q. And then it was probably
10 every week?

11 A. No, no, no. There would be,
12 there were some months we were slow and
13 we didn't have much, that much going, so
14 it just depended. Sometimes he would go
15 just for a few days, sometimes he'd do
16 local stuff, sometimes he would, you
17 know, it just, it really varied because
18 -- it really varied.

19 Q. When you said Mr. Szabo
20 trained the calibration techs, did he
21 tell them where to go? Did he give them
22 their assignments, these other employees
23 of Muncy?

24 A. No. He trained on the

1 technical side of calibration because if
2 you do it wrong people can die, and if
3 you do it wrong, you can damage
4 equipment, you can hurt people, so it was
5 very important that he showed them the
6 proper way of setting up the equipment,
7 operating the equipment, calibrating it
8 properly so it's within the standard.

9 Q. All right. So he never gave
10 out anyone's assignments?

11 A. No.

12 Q. Did he have the authority to
13 hire and fire other employees?

14 A. No.

15 Q. So did he ever tell you
16 someone deserved a promotion and you
17 would listen to him?

18 A. He gave me feedback
19 regularly of new calibration techs that
20 were under his supervision and that he
21 was training, so he was, he believed that
22 some of them should have been, were not a
23 good fit, and others were a very good fit
24 and we should invest in them.

1 Q. Invest, what do you mean?

2 A. We should keep them, we
3 should continue to train and invest Ric's
4 time in them.

5 Q. Okay. So if he told you to
6 hire someone, fire someone, promote
7 someone, you would listen to him?

8 A. Absolutely.

9 Q. Would you always listen to
10 him?

11 A. Can you repeat the question?
12 I didn't hear you.

13 Q. Would you always listen to
14 him when he would make a recommendation?

15 A. I would always listen in
16 terms of personnel issue, of course. I
17 mean, a manager listens and weighs all
18 the facts they have presented to them. I
19 don't think I was ever in any really
20 disagreement with him on the personnel
21 that he trained.

22 Q. Okay. Did you ever make a
23 decision based on what Mr. Szabo told you
24 about an employee?

1 A. Yes.

2 Q. Okay. As lead calibration
3 technician, would you describe
4 Mr. Szabo's work as office work or field
5 work?

6 A. Can you repeat the question?
7 I apologize.

8 Q. So Mr. Szabo --

9 A. I can't hear you.

10 Q. Would you classify
11 Mr. Szabo's work as office work or field
12 work?

13 A. Both.

14 Q. All right. Would you call
15 it manual work or nonmanual work?

16 A. Both.

17 Q. Was Mr. Szabo able to
18 exercise discretion and independent
19 judgment?

20 A. Every day.

21 Q. Did he need your approval
22 for things first?

23 MR. STAPP: I couldn't hear
24 the question, Mary. You're kind

1 of going in and out, but go ahead.

2 BY MS. KRAMER:

3 Q. Mr. Szabo, did he need to
4 get your approval before he made
5 decisions about buying things, about
6 talking to your clients, about going
7 places?

8 A. It depends on what it was.

9 Q. Okay.

10 A. So when he was calibrating,
11 I was not, so I gave him zero input on
12 how to start the program, the equipment,
13 the -- if he's out in the field, what low
14 you do, you give a customer, how to rig
15 the equipment in the field, how to
16 operate the equipment, what is, you know,
17 in a critical way what is safe, the safe
18 operation of that equipment.

19 Ric was making those
20 decisions every time he calibrated and we
21 trusted him because of his reputation,
22 his training and the results that he was
23 providing, which was consistently good
24 calibrations.

1 So from a technical side of
2 things, you know, Ric on a daily basis
3 made all those decisions and he also made
4 them for other people as a calibration
5 tech lead when they had questions or when
6 he told them to do it, they did it.

7 As it pertains to expenses
8 and travel, there were certain parameters
9 that we tried to stay within, but Ric
10 booked the travel, Ric booked the cars,
11 Ric booked the hotels, Ric bought his
12 meals, and he would do that on, you know,
13 as he traveled.

14 Would I review it after the
15 fact just to make sure that we're
16 following, you know, that everything was
17 reasonable? Absolutely, but, you know,
18 every situation is different. You know,
19 there are times when he needed to go buy
20 something in the field, he needed some
21 kind of wire, some kind of something in
22 the field to get the job done, he would
23 take his credit card, go and just get
24 that done, so it just depended on what it

1 was.

2 If he wanted to buy capital
3 expenditures, if he wanted to buy, mostly
4 capital expenditures, then we have a
5 process and he would follow that process
6 in order to achieve that, and he did buy
7 multiple and fill out multiple capital
8 expenditures, and we did what he said
9 because he was the expert.

10 Q. Okay. Could he sign up a
11 new client without talking to you about
12 it?

13 A. What do you mean by sign up?

14 Q. Honestly, I don't know the
15 calibration field. Like sign a contract
16 with somebody without discussing it with
17 you?

18 A. So if he -- there were times
19 where he would be at a calibration and he
20 would say, hey, I can calibrate this
21 other stuff here that is here, or maybe
22 they need another piece of equipment, or
23 while I'm here I can fix this for them,
24 and he would do it and we would charge

1 the customer.

2 Q. Okay. Did he have to send
3 you every day though a status report?

4 A. So when he's calibrating in
5 the field, I truly, my involvement was
6 very, very little. Now, in the back I
7 tried to make sure that we had customers
8 and I tried to be more on the sales side
9 to get the business, but the actual trips
10 and the details, others put those
11 together, I did not, so he was not in
12 communication with me about trips.

13 When you're calibrating
14 there is no daily log. When you're done
15 calibrating you fill out the certificate
16 showing that we pulled the numbers and
17 verified the numbers to the E4 standard
18 per our ISO 17025.

19 So he would send that on a
20 regular basis to be checked and to be,
21 you know, and there was another form for
22 a work order to make sure that we did the
23 work, and when he got there and when he
24 left, the typical type of paperwork that

1 you would do for a calibration.

2 When he was not in the
3 calibration side and when he was in the
4 office, he would work with me among
5 others, but he would work with me on some
6 projects, and I tried to work with him to
7 manage and focus him on what needed to be
8 done in the office.

9 Calibration, you know,
10 traveling around, he really didn't have a
11 lot of contact with me. When he was in
12 the office he had more contact with me,
13 and that was again setting up the lab
14 early on, setting up the procedure, just
15 trying to make sure that he wrote them
16 within a reasonable amount of time. The
17 substance, I didn't know what I was
18 looking at. I mean, this was a Ric
19 thing. He was the expert.

20 Q. So when I talk about him
21 giving you a daily goal list, a weekly
22 goal list, are you familiar with what I'm
23 talking about?

24 A. Yes.

1 Q. All right. Did everyone
2 have to do that?

3 A. It depends on people's
4 functions. For what he was doing he was
5 working on a lot of different projects
6 and I was trying to make sure that he was
7 working on them within the time frames
8 that we had agreed. So that's what that
9 was, just to keep him, just so I
10 understood what he was doing when he
11 wasn't calibrating.

12 Q. Okay. So would you classify
13 being a lead calibration technician as
14 work that is predominantly intellectual
15 in character?

16 A. Substantially intellectual I
17 would say.

18 Q. Did you say "substantially
19 intellectual"?

20 A. Yes, intellectual for sure.
21 Let me rephrase. Yes, because you have
22 to understand the rules. You have to
23 walk -- every situation is different for
24 how you're going to approach each

1 calibration. You have to have multiple
2 disciplines. You have to be good at
3 multiple disciplines, which includes the
4 rotation side, the electrical side. You
5 have to be good at the rating side and
6 the structural side. You have to be good
7 at operating heavy equipment. You have
8 to be good at following the rules.

9 So I think, and especially
10 setting up the whole program is extremely
11 intellectual. You needed to be able to
12 create work instructions and procedures
13 and understand what else is out there and
14 still comply with applicable procedures,
15 and I think he was very technical, so I
16 was very impressed with what Ric did for
17 us when he set up the program.

18 Q. All right. So does it
19 require knowledge in a field of science
20 or learning?

21 A. Absolutely. You need to
22 know physics. You need to know D over D
23 ratio. You need to know safety factors.
24 You need to know hydraulics. You need to

1 know, understand sometimes the electrical
2 schematics and the hydraulic schematics
3 of equipment. I mean, a lot of these
4 things are above me. I don't know how to
5 do a lot of these things that Ric did.

6 Q. All right. So does it
7 require a prolonged course of specialized
8 intellectual instruction?

9 A. I don't know how you would
10 do it otherwise. If you don't have that
11 type of background to start a, a program
12 and to understand holistically how
13 everything fits together, it would be a
14 disjointed program if you did not
15 understand all of these things, and we
16 were lucky to find Ric who had all of
17 these things.

18 Q. All right. So I'm going to
19 show you what I marked as Fetter-2.

20 (Exhibit Fetter-2 was marked
21 for identification.)

22 BY MS. KRAMER:

23 Q. This is Mr. Szabo's
24 application for employment with Muncy and

1 his resume, so it's a six-page document.
2 Let me know when you're ready for me to
3 go to the next page.

4 Again, if you need me to
5 make anything bigger, just let me know.

6 A. Sorry for my face.

7 Okay.

8 Okay.

9 Okay.

10 Okay.

11 Yes.

12 Okay.

13 Q. Is there anywhere on
14 Mr. Szabo's application or his resume
15 that says he has spent a significant
16 amount of time in a classroom?

17 A. Yes.

18 Q. Where? And I can go back
19 up.

20 A. First, I would say the
21 document speaks for itself. Second, I
22 would say that his training in the
23 military, his training on engines and
24 learning about these engines in a

1 training setting in the military and his,
2 if you scroll back up to the -- right
3 there. I'm sorry, right there. Where it
4 says "Key skills and abilities," the fact
5 that he has this type of broad experience
6 that is specialized made him perfect for
7 this role with again the military, AJT,
8 they trained him as well. Specifically
9 in our industry and before the industry,
10 you know, he did a lot with aircrafts, he
11 did a lot with engines. You know, these
12 are the things that made him succeed.

13 Q. So there was nothing to
14 indicate he has received a course of
15 specialized intellectual instruction?

16 A. I believe he went to, he had
17 some schooling and I believe he went in
18 the military. Both had substantial
19 schooling.

20 Q. But Mr. Szabo has not
21 received any academic degrees; correct?

22 A. Ask Ric.

23 Q. I am asking you because you
24 are the one who classified him as an

1 exempt employee.

2 A. Yeah. I would say that he
3 had a lot of class time, had a lot in a
4 vo. tech type setting and also in the
5 military. I think that's the specialized
6 training and then when he trained our
7 people, it was also in a classroom type
8 setting as well.

9 Q. But the question was an
10 academic degree. Does he have an
11 academic degree like you have a JD and a
12 master's? Is there anything on
13 Mr. Szabo's resume?

14 A. I don't see one.

15 Q. And I believe on the first
16 page, when he applied or the application,
17 his prior job before coming to you was
18 with AJT; is that right?

19 A. Yes.

20 Q. Okay. So he was salary
21 there or hourly there and Mr. Szabo has
22 been hourly every other job he's worked;
23 is that correct?

24 A. I cannot speak for -- I

1 cannot speak to that. I can only speak
2 to what you are showing me on this
3 screen.

4 Q. Okay. The job Mr. Szabo had
5 prior to coming to Muncy, as far as you
6 are aware, was that as a calibration
7 technician?

8 A. Before, yes.

9 Q. Okay. And do you know if he
10 was -- yes, I believe it does say he was
11 an hourly employee.

12 A. I don't know. It says
13 17/HR, next to the word "salary." I
14 don't know.

15 Q. Fair enough.

16 And I apologize if I already
17 asked this, but which location did
18 Mr. Szabo primarily work out of when he
19 was at Muncy?

20 A. The Broussard, Louisiana
21 location.

22 Q. Are you familiar with that
23 location?

24 A. Could you repeat the

1 question? I couldn't hear you. I'm
2 sorry.

3 Q. How familiar are you with
4 that location?

5 A. Very.

6 Q. That location, did you have
7 posted a notice explaining the Fair Labor
8 Standards Act and an employee's rights
9 under the Fair Labor Standards Act?

10 A. Yes.

11 Q. Okay. Do you remember
12 where?

13 A. I think there is a bulletin
14 board in the office. I'm not sure where
15 that is. It's either by the bulletin --
16 there is two bulletin boards. It's
17 either the one by the sink in the office
18 or the one in the shop by the office.

19 Q. Okay. When we were talking
20 about earlier the travel times for the
21 calibration technicians, you said there
22 wasn't a method of tracking the time for
23 any of the technicians. Was Mr. Szabo
24 the only technician lead?

1 A. Yes, only technician lead,
2 only technician at the time.

3 Q. Okay. During the course of
4 his employment though other technicians
5 came on?

6 A. Yes.

7 Q. And again I apologize if I
8 already asked this. Were those
9 technicians salary or hourly?

10 A. Salary.

11 Q. Okay. Why?

12 A. Because we didn't, again we
13 thought it would be more fair and easy to
14 track. We didn't have a mechanism to
15 track time well. Employees understand
16 that travel takes time and that's just
17 part of the job. It's a technical
18 position and the type of role, it makes
19 sense to be salary, and everybody agrees
20 to that.

21 Q. Okay. So the reason
22 Mr. Szabo was paid salary is because it's
23 your position he was exempt, but the
24 other employees, technicians are paid

1 salary because it makes sense?

2 A. Can you repeat the question?

3 Q. I'm just making sure I
4 understand. Mr. Szabo was paid a salary
5 because it is your position that he was
6 an exempt employee, but the other
7 technicians were paid a salary because
8 it's your position and their position
9 that it just made sense to pay them a
10 salary?

11 A. That's what we do. I don't
12 understand. Can you rephrase the
13 question again? I'm sorry.

14 Q. Well, I'm just trying to
15 understand why there are different
16 reasons to pay people salaries when they
17 are doing arguably the same job.

18 A. Right. The type of position
19 makes sense to be salary.

20 MS. KRAMER: All right. So
21 Mr. Fetter, that's all the
22 questions I have. Attorney Stapp
23 may have some, but thank you for
24 your time today.

1 THE WITNESS: Thank you.

2 MR. STAPP: I just have a
3 couple just to clarify, and I
4 don't know if you have Muncy-2
5 there, Mary, to show him.

6 MS. KRAMER: Yes.

7 MR. STAPP: I think it's
8 Page 4 is the application for
9 employment with Mr. Szabo where it
10 shows his degrees from Bradwell
11 Institute and Premier Systems.

12 MS. KRAMER: This is Page
13 5. That's the start of the
14 resume.

15 MR. STAPP: I think it's
16 Page 4.

17 MS. KRAMER: This is 4.

18 MR. STAPP: Go to 3 then.
19 All right. I'm sorry, it's Page
20 2. Yep, you can stop there.

21 - - -

22 EXAMINATION

23 - - -

24 BY MR. STAPP:

1 Q. So, Mr. Fetter, we're
2 looking at Page 2 of what's been marked
3 for your deposition Fetter-2.

4 Does the application that
5 Mr. Szabo filled out for Bradwell
6 Institute, does that say how long he
7 attended the institute?

8 A. Yes, four years.

9 Q. And does it, did he say that
10 he graduated that institute?

11 A. Yes, it says he graduated.

12 Q. And the Premier Systems and
13 Training, did he also graduate from that
14 program?

15 A. Yes, it says he graduated.

16 Q. And just so we're, just so I
17 understand your testimony today, did any
18 of the other technicians that were hired
19 by Muncy Industries around the time of
20 Mr. Szabo's employment, that is 2018,
21 2019, 2020, did any of them do the job
22 that he was doing for you, all the jobs?

23 A. No. He set up the whole
24 program. They went along with the

1 program.

2 MR. STAPP: That's all the
3 questions I have. Thank you.

4 MS. KRAMER: I just have a
5 follow-up.

6 - - -

7 EXAMINATION

8 - - -

9 BY MS. KRAMER:

10 Q. Mr. Fetter, were you aware
11 that Bradwell Institute is a high school?

12 A. I don't know what it is.

13 MS. KRAMER: Okay. Yeah,
14 that's all the questions I had.

15 Thank you.

16 (Witness excused.)

17 - - -

18 (Deposition concluded at
19 11:10 a.m.)

20

21

22

23

24

CERTIFICATE

I, DONNA A. BITTNER, RMR-CRR and NJ
CSR License No. 30XI00179000, do hereby
certify that prior to the commencement of the
examination, JASON FETTER, was duly remotely
sworn by me to testify to the truth, the
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the
foregoing is a verbatim transcript of the
testimony as taken stenographically by me at
the time, place and on the date hereinbefore
set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither
a relative nor employee nor attorney nor
counsel of any of the parties to this action,
and that I am neither a relative nor employee
of such attorney or counsel, and that I am
not financially interested in this action.



DONNA A. BITTNER, RMR-CRR
NJ CSR No. 30XI00179000
Notary Public
Dated: August 24, 2022